

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 5:03-CV-0077-3 (CAR)
)	
REICHHOLD LIMITED, et al.,)	
)	
Defendants.)	
<hr/>		
CANADYNE-GEORGIA CORPORATION,)	
)	
Counter-claimant,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Counter-defendant.)	

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter (1) pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA"), seeking reimbursement of costs incurred in responding to a release or threatened release of hazardous substances at and from the Woolfolk Chemical Superfund Site in Fort Valley, Georgia (the "Site"); (2) pursuant to

Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), and Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), for treble costs and fines based on the alleged failure by Reichhold Limited and Canadyne-Georgia Corporation to comply with unilateral administrative orders issued by EPA; and (3) pursuant to Section 113(g) of CERCLA, 42 U.S.C. § 9613(g), for a declaratory judgment that the defendants are liable for future costs not inconsistent with the National Contingency Plan.

B. Defendant Canadyne-Georgia Corporation filed a petition with EPA's Environmental Appeals Board ("EAB") and a counterclaim against the United States for reimbursement of costs incurred and paid by Canadyne-Georgia pursuant to Section 106(b) of CERCLA.

C. The Parties that have entered into this Consent Decree do not admit any fact or liability to each other arising out of the transactions or occurrences alleged in the complaint or counterclaim.

D. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Settling Defendants consent to and shall not challenge entry of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

b. "Consent Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, this Consent Decree shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

g. "Financial Information" shall mean the financial statements and tax returns for the years ending 1999 to 2002 provided to the United States by Settling Defendants and relating to the financial condition of Reichhold Limited,

Canadyne-Georgia Corporation, and Reichhold, Inc., together with Settling Defendant's letter to the United States dated March 3, 2004.

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

j. "Parties" shall mean the United States and the Settling Defendants.

k. "Response Costs" shall mean all costs, not inconsistent with the NCP, including but not limited to direct and indirect costs, that the United States has incurred or will incur at or in connection with the Site, plus Interest on all such costs.

l. "Plaintiff" shall mean the United States.

m. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

n. "Settling Defendants" shall mean Reichhold, Inc., Reichhold Limited, Canadyne Corporation and Canadyne-Georgia Corporation.

o. "Woolfolk Settlement Agreement" shall mean the Settlement Agreement, dated February 28, 2002, between Canadyne-Georgia Corporation; Woolfolk Chemical Works, Ltd; John W. Moye, Thomas W. Cleveland, Jr. and Rachel Mathes, as Trustees of the J.W. Woolfolk Trust; John W. Moye, as Trustee of the Elizabeth Woolfolk Moye Trust; Thomas W. Cleveland, Jr., as Trustee of the Anita Woolfolk Cleveland Trust; and Rachel Mathes, as Trustee of the Jacqueline Woolfolk Mathes Trust.

p. "Site" shall mean the Woolfolk Chemical Superfund Site in Fort Valley, Georgia as listed on the National Priorities List ("NPL") and all areas where hazardous substances have come to be located as a result of pesticide operations on that Site.

q. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. STATEMENT OF PURPOSE

4. By entering into this Consent Decree, the mutual objective of the Parties is for Settling Defendants to make a cash payment to address their liability for the Site as provided in the Covenant Not to Sue by Plaintiff in Section

IX and subject to the Reservations of Rights by United States in Section X, to resolve all other litigation between the parties relating to the Site, including Canadyne-Georgia Corporation's petition under Section 106(b) of CERCLA, the counterclaim, and any appeals relating to requests under the Freedom of Information Act in connection with the Site.

VI. PAYMENT BY SETTLING DEFENDANTS

5. Settling Defendants shall pay to the EPA Hazardous Substance Superfund a total of \$5,000,000.00 in reimbursement of Response Costs and in consideration of the covenant not to sue with respect to past or future claims as set forth in Section IX. Within 60 days of the effective date of this Consent Decree, Settling Defendants shall pay \$1,250,000.00, and on or before each of the next three anniversary dates of the effective date of this Consent Decree, Settling Defendants shall pay the remainder of the \$5,000,000 in installments of \$1,250,000.00, with Interest accruing as of the date the first payment was due. On or before each anniversary date Settling Defendants shall also pay interest accrued through the date of payment.

6. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number 2002V00209, the EPA Region and Site Spill ID Number 04W1, and DOJ Case Number 90-11-3-07282. Payment shall be made in

accordance with instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the Middle District of Georgia following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day.

7. At the time of payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ in accordance with Section XVI (Notices and Submissions) and to:

Ms. Paula V. Batchelor
U.S. EPA, Region 4
Superfund Enforcement and Information Management Branch
Superfund Enforcement and Information Management Section
61 Forsyth St., S.W.
Atlanta, Georgia 30303

8. The total amount to be paid pursuant to this Section by Settling Defendants shall be deposited into the Woolfolk Chemical Works Superfund Special Account for the Site within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

9. Settling Defendants hereby assign to the United States any rights they have or may have to receive future payments pursuant to the Woolfolk Settlement Agreement and shall pay any such sums received pursuant to any such agreement, within 30

days of receipt, to the United States in accordance with the procedures set forth in Paragraphs 6 through 8 above.

VII. FAILURE TO COMPLY WITH CONSENT DECREE

10. Interest on Late Payments. If any Settling Defendant fails to make any payment under Paragraphs 5 through 7 by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment. If any Settling Defendant fails to make any payment under Paragraph 9 by the required due date, Interest shall accrue on the unpaid balance through the date of payment.

11. Stipulated Penalties.

a. If any amounts due under Paragraphs 5 through 7 or Paragraph 9, are not paid by the required due date, Settling Defendants shall be in violation of this Consent Decree and shall pay, as a stipulated penalty, in addition to the Interest required by Paragraph 10, \$1,000 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the

check, shall reference the name and address of the party(ies) making payment, the Site name, the EPA Region and Site Spill Number 04W1, and DOJ Case Number 90-11-3-07282, and shall be sent to:

U.S. Environmental Protection Agency
Region 4
Superfund Accounting
P.O. Box 100142
Atlanta, GA 30384
Attn: Collection Officer in Superfund

c. At the time of each payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ in accordance with Section XVI (Notices and Submissions) and to

Ms. Paula V. Batchelor
U.S. EPA, Region 4
Superfund Enforcement and Information Management Branch
Superfund Enforcement and Information Management Section
61 Forsyth St., S.W.
Atlanta, Georgia 30303

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

12. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United

States for all costs of such action, including but not limited to costs of attorney time.

13. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

14. The obligations of Settling Defendants to pay amounts owed the United States under this Consent Decree are joint and several.

15. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section VI or from performance of any other requirements of this Consent Decree.

VIII. FINANCIAL CONDITION OF SETTLING DEFENDANTS

16. Settling Defendants represent and warrant to the best of their knowledge and belief that full and complete disclosure has been made with respect to their financial condition, and that the Financial Information is not materially misleading.

IX. COVENANT NOT TO SUE BY PLAINTIFF

17. Covenant Not to Sue by United States. Except as specifically provided in Section X (Reservation of Rights by

United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, with regard to the Site. This covenant not to sue shall take effect upon receipt by EPA of all payments required by Section VI (Payment by Settling Defendants) and any amount due under Section VII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants and does not extend to any other person. This covenant not to sue is also conditioned upon the veracity and completeness of the Financial Information provided to the United States by Settling Defendants. If the Court subsequently determines by the preponderance of the evidence that the Financial Information was false or inaccurate in any material respect, Settling Defendants shall forfeit all payments made pursuant to this Consent Decree; this covenant not to sue and the contribution protection provided herein shall be null and void, and, even if the United States is unsuccessful in future litigation to recover response costs, Defendants shall not be entitled to reimbursement of payments made pursuant to this Consent Decree. In the event that the United States asserts a claim for costs because a covenant not to sue has been declared

null and void, the United States shall not object to the timeliness of a counterclaim and/or a petition for reimbursement under Section 106(b) of CERCLA, 42 U.S.C. § 96006(b), which sets forth the same claims in the pending counterclaim and petition; and the Settling Defendants' Covenant Not to Sue set forth in Paragraph 19 shall be come null and void with respect to that counterclaim and/or petition.

X. RESERVATION OF RIGHTS BY UNITED STATES

18. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenant Not to Sue by United States in Paragraph 17. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants, with respect to:

- a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability, based upon Settling Defendants' operation of the Site, or upon Settling Defendants' transportation, treatment, storage, or disposal, or the

arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Decree by Settling Defendants; and

e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

XI. COVENANT NOT TO SUE BY SETTLING DEFENDANTS

19. Settling Defendants will voluntarily dismiss their counterclaim and CERCLA 106(b) petition within 30 days of entry of this Consent Decree, and covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Response Costs, the Site, and this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund, whether previously asserted or not, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law;

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613; or

d. any appeals relating to any existing Freedom of Information Act requests in connection with the Site.

20. Except as provided in Paragraph 24 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 18 (c) - (d), but only to the extent that Settling Defendants' claims arise from the same response action or response costs that the United States is seeking pursuant to the applicable reservation. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

21. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law. The Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action

which they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

22. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants are entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree include all costs incurred by any person in connection with the Site and all claims and administrative actions described in Paragraph 17 (Covenant not to Sue by United States). The "matters addressed" in this Consent Decree do not include those response costs or response actions as to which the United States has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), in the event that the United States asserts rights against Settling Defendants coming within the scope of such reservations.

23. Each Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it

for matters related to this Consent Decree, it will notify EPA and DOJ in writing within 10 days of service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ within 30 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

24. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiff set forth in Section IX.

XIII. SITE ACCESS

25. To the extent that there are access agreements and arrangements previously agreed upon by the parties, those agreements and arrangements remain in effect. To the extent any Settling Defendant owns any portion of the Site not covered by

such agreements and arrangements, that Settling Defendant agrees to provide the United States and its representatives, including EPA and its contractors, access at all reasonable times to the Site and to any other property owned or controlled by such Settling Defendants to which access is determined by EPA to be required for the implementation of this Consent Decree, or for the purpose of conducting any response activity related to the Site, including but not limited to:

- a. Monitoring, investigation, removal, remedial or other activities at the Site;
- b. Verifying any data or information submitted to the United States;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples;
- e. Assessing the need for, planning, or implementing response actions at or near the Site;
- f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents, consistent with Section XIV (Access to Information); and
- g. Assessing Settling Defendants' compliance with this Consent Decree.

26. Notwithstanding any provision of this Consent Decree, or any existing access agreement or arrangement, the United States retains all of its right to require land/water use restrictions and access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6927, and any other applicable statutes or regulations.

27. Notice of Obligations to Successors-in-Title.

a. Within 30 days after entry of this Consent Decree, any Settling Defendant that owns any portion of the Site shall record a notice of entry of this Consent Decree with the Recorder's Office for the county where the Site is located. Thereafter, each deed, title, or other instrument conveying an interest in the property included in the Site shall contain a notice stating that the property is subject to this Consent Decree and shall reference the Court where a copy of the Consent Decree can be located and reviewed.

b. The obligations of the Settling Defendants with respect to the provision of access under Section XIII (Site Access) shall be binding upon any and all persons who subsequently acquire any such interest or portion thereof (hereinafter "Successors-in-Title"). Within 30 days after the entry of this Consent Decree, the Settling Defendants shall record at the Recorder's Office for the county where the Site is

located, a notice of obligation to provide access under Section XIII (Site Access) and related covenants, if any. Each subsequent instrument conveying an interest to any such property included in the Site shall reference the recorded location of such notice and covenants applicable to the property.

c. The Settling Defendants shall, at least 30 days prior to the conveyance of any such interest, give written notice of this Consent Decree to the grantee and written notice to EPA of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Consent Decree was given to the grantee. In no event shall any such conveyance release or otherwise affect the liability of the Settling Defendants to comply with all provisions of this Consent Decree, absent the prior written consent of the United States.

d. If any remedial action selected by EPA includes institutional controls on the use of the Site, any Settling Defendant that owns any portion of the Site will comply with such institutional controls and will include such institutional controls in any deed conveying an interest in the property.

XIV. ACCESS TO INFORMATION

28. Except for documents and information that are privileged under the attorney-client privilege, the work product privilege or doctrine, or any other privilege or doctrine

recognized by federal law, Settling Defendants shall provide to EPA, upon request, copies of all documents and information within its possession or control or that of their contractors or agents relating to activities at the Site including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Site.

29. Confidential Business Information and Privileged Documents.

a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e) (7) of CERCLA, 42 U.S.C. § 9604(e) (7), and 40 C.F.R. 2.203(b). This claim shall be substantiated by Settling Defendants at the time the assertion is made. Documents or information determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has given Settling Defendants thirty (30) days written notice that the documents or information are not confidential under the standards of Section 104(e) (7) of CERCLA,

the public may be given access to such documents or information without further notice to Settling Defendants.

b. Settling Defendants may assert that certain documents, records or other information are privileged under the attorney-client privilege or any other privilege or doctrine recognized by federal law. If Settling Defendants assert such a privilege in lieu of providing documents, they shall provide Plaintiff with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege or doctrine asserted. However, no documents, reports or other information created or generated pursuant to the requirements of and after the entry of this Consent Decree with the United States shall be withheld on the grounds that they are privileged or otherwise protected. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records and documents that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege

claim and any such dispute has been resolved in the Settling Defendants' favor.

30. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

31. Upon receipt of a Freedom of Information Act (FOIA) request for documents or information in the possession of EPA evidencing conditions at or around the Site, EPA shall respond within the time frame required by FOIA and 40 CFR Part 2, Subpart A, either providing copies of such requested information or informing the Requestor about when the information will be available for inspection and/or copying; provided such data is not subject to Exemption 5 to FOIA, 5 U.S.C. § 552(b)(5).

XV. RETENTION OF RECORDS

32. Until fifteen (15) years after entry of this Consent Decree, Settling Defendants shall preserve and retain all records and documents now in their possession or control, or which come into their possession or control, that relate in any manner to response actions taken at the Site or to the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary.

33. After the conclusion of the document retention period in the preceding Paragraph, Settling Defendants shall notify EPA and DOJ at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or DOJ, Settling Defendants shall deliver any such records or documents to EPA. Settling Defendants may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege or doctrine recognized by federal law. If Settling Defendants asserts such a privilege or doctrine, they shall provide Plaintiff with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege or doctrine asserted. However, no documents, reports, or other information created or generated pursuant to the requirements of and after the entry of this Consent Decree with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records and documents that it claims to be privileged until the United

States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor.

XVI. NOTICES AND SUBMISSIONS

34. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, and Settling Defendants, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice (DJ #90-11-2-733/1)
P.O. Box 7611
Washington, D.C. 20044-7611

As to EPA:

Charles L. King, Jr.
Remedial Project Manager
Georgia Section
Waste Management Division
U.S. EPA, Region IV
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

Karen Singer
Associate Regional Counsel
U.S. EPA, Region IV
61 Forsyth St., S.W.
Atlanta, Georgia 30303

As to Settling Defendants:

William D. Dannelly, Esq.
Hunton & Williams LLP
P.O. Box 109
Raleigh, North Carolina 27602-0109

Walter H. Bush, Jr., Esq.
Arnall Golden & Gregory, LLP
2800 One Atlantic Center
1201 West Peachtree Street
Atlanta Georgia 30309-3450

Daniel E. Uyesato, Esq.
General Counsel
Reichhold, Inc.
P.O. Box 13582
Research Triangle Park, NC 27709

XVII. RETENTION OF JURISDICTION

35. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XVIII. INTEGRATION/APPENDICES

36. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree: "Appendix A"

is the map of the Site. "Appendix B" is a list of names and addresses for Settling Defendants.

XIX. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

37. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

38. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole and unreviewable discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XX. SIGNATORIES/SERVICE

39. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

40. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing or stated in open court that it no longer supports entry of the Consent Decree, as is.

41. Each Settling Defendant that has not previously done so, waives formal service of the summons and complaint as set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court. The Parties agree that Settling Defendants need not file any pleading required to be filed in connection with the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XXI. FINAL JUDGMENT

42. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States and the Settling Defendants with respect to the subject matter of the claims and counterclaims asserted herein. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS _____ DAY OF _____, 2004.

UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Reichhold Limited, et al., No. 5:03-CV-0077-3 (CAR) relating to the Woolfolk Chemical Superfund Site in Fort Valley, Georgia.

FOR THE UNITED STATES OF AMERICA

Date: 12.1.04

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice
Washington, DC 20044-7611

Date: _____

JAMES V. MacAYEAL
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

MAXWELL WOOD
United States Attorney
H. RANDOLPH ADERHOLD
Chief, Civil Division
Middle District of Georgia
Post Office Box U
Macon, GA 31202

Date: _____

J. I. Palmer Jr.
Regional Administrator
Region IV
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

OF COUNSEL:

KAREN SINGER
Associate Regional Counsel
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

FOR SETTLING DEFENDANTS:

REICHHOLD, INC. *nnn*

Dated: November 1, 2004

By: _____
John S. Gaither
President
P.O. Box 13582
Research Triangle Park, NC 27709

REICHHOLD, LIMITED *nn*

Dated: November 1, 2004

By: _____
John S. Gaither
President
P.O. Box 13582
Research Triangle Park, NC 27709

CANADYNE CORPORATION

Dated: March 1, 2004
November @

By: _____
John Oldham
President
P.O. Box 13582
Research Triangle Park, NC 27709

CANADYNE-GEORGIA CORPORATION

Dated: March 1, 2004
November @

By: _____
John Oldham
President
P.O. Box 13582
Research Triangle Park, NC 27709

RAILROAD STREET

RAILROAD SPUR

P-1 OPEN FIELD

MAY-10

MARION ALLEN PROPERTY

MW-4A

MW-4B

MW-10

N. KING ST. DRIVE

MW-2F

MW-2C

MW-2T

BLDG. 1

BLDG. 2

BLDG. 3

BLDG. 4

BLDG. 5

BLDG. 6

BLDG. 7

BLDG. 8

BLDG. 9

BLDG. 10

MACHINE SHOP AREA

MW-21

MW-22

MW-23

MW-24

MW-25

MW-26

MW-27

MW-28

MW-29

MW-30

MW-31

MW-32

MW-33

MW-34

MW-35

MW-36

MW-37

MW-38

MW-39

MW-40

MW-41

MW-42

MW-43

MW-44

MW-45

MW-46

MW-47

MW-48

MW-49

MW-50

MW-51

MW-52

MW-53

MW-54

MW-55

MW-56

MW-57

MW-58

MW-59

MW-60

MW-61

MW-62

MW-63

MW-64

MW-65

MW-66

MW-67

MW-68

MW-69

MW-70

MW-71

MW-72

MW-73

MW-74

MW-75

MW-76

MW-77

MW-78

MW-79

MW-80

MW-81

MW-82

MW-83

MW-84

MW-85

MW-86

MW-87

MW-88

MW-89

MW-90

MW-91

MW-92

MW-93

MW-94

MW-95

MW-96

MW-97

MW-98

MW-99

MW-100

MW-101

MW-102

MW-103

MW-104

MW-105

MW-106

MW-107

MW-108

MW-109

MW-110

MW-111

MW-112

MW-113

MW-114

MW-115

MW-116

MW-117

MW-118

MW-119

MW-120

MW-121

MW-122

MW-123

MW-124

MW-125

MW-126

MW-127

MW-128

MW-129

MW-130

MW-131

MW-132

MW-133

MW-134

MW-135

MW-136

MW-137

MW-138

MW-139

MW-140

MW-141

MW-142

MW-143

MW-144

MW-145

MW-146

MW-147

MW-148

MW-149

MW-150

MW-151

MW-152

MW-153

MW-154

MW-155

MW-156

MW-157

MW-158

MW-159

MW-160

MW-161

MW-162

MW-163

MW-164

MW-165

MW-166

MW-167

MW-168

MW-169

MW-170

MW-171

MW-172

MW-173

MW-174

MW-175

MW-176

MW-177

MW-178

MW-179

MW-180

MW-181

MW-182

MW-183

MW-184

MW-185

MW-186

MW-187

MW-188

MW-189

MW-190

MW-191

MW-192

MW-193

MW-194

MW-195

MW-196

MW-197

MW-198

MW-199

MW-200

MW-201

MW-202

MW-203

MW-204

MW-205

MW-206

MW-207

MW-208

MW-209

MW-210

MW-211

MW-212

MW-213

MW-214

MW-215

MW-216

MW-217

MW-218

MW-219

MW-220

MW-221

MW-222

MW-223

MW-224

MW-225

MW-226

MW-227

MW-228

MW-229

MW-230

MW-231

MW-232

MW-233

MW-234

MW-235

MW-236

MW-237

MW-238

MW-239

MW-240

MW-241

MW-242

MW-243

MW-244

MW-245

MW-246

MW-247

MW-248

MW-249

MW-250

MW-251

MW-252

MW-253

MW-254

MW-255

MW-256

MW-257

MW-258

MW-259

MW-260

MW-261

MW-262

MW-263

MW-264

MW-265

MW-266

MW-267

MW-268

MW-269

MW-270

MW-271

MW-272

MW-273

MW-274

MW-275

MW-276

MW-277

MW-278

MW-279

MW-280

MW-281

MW-282

MW-283

MW-284

MW-285

MW-286

MW-287

MW-288

MW-289

MW-290

MW-291

MW-292

MW-293

MW-294

MW-295

MW-296

MW-297

MW-298

MW-299

MW-300

MW-301

MW-302

MW-303

MW-304

MW-305

MW-306

MW-307

MW-308

MW-309

MW-310

MW-311

MW-312

MW-313

MW-314

MW-315

MW-316

MW-317

MW-318

MW-319

MW-320

MW-321

MW-322

MW-323

MW-324

MW-325

MW-326

MW-327

MW-328

MW-329

MW-330

MW-331

MW-332

MW-333

MW-334

MW-335

MW-336

MW-337

MW-338

MW-339

MW-340

MW-341

MW-342

MW-343

MW-344

MW-345

MW-346

MW-347

MW-348

MW-349

MW-350

MW-351

MW-352

MW-353

MW-354

MW-355

MW-356

MW-357

MW-358

M

Figure 1.2: Site Map

ATTACHMENT B

Reichhold, Inc.:

Registered Agent
CT Corporation
1209 Orange Street
Wilmington, Delaware 19801

Reichhold Limited:

Registered Agent
Miller Thompson LLP
Attn: Steven Wesfield
2500, 20 Queen Street West
Toronto, Ontario
CANADA M5H 3S1

Canadyne Corporation:

Registered Agent
CT Corporation
1201 Peachtree Street, N.W.
Atlanta, Georgia 30361

Canadyne-Georgia Corporation:

Registered Agent
CT Corporation
1201 Peachtree Street, N.W.
Atlanta, Georgia 30361